

# Senate Study Bill 1186 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON FEENSTRA)

## A BILL FOR

1 An Act repealing the beverage containers control program,  
2 creating a recycling program and a litter control and  
3 community enhancement initiative, imposing certain recycling  
4 program fees and litter control and community enhancement  
5 excise taxes, repealing and creating funds within the  
6 state treasury, and including effective date and transition  
7 provisions.  
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **15.221 Keep Iowa beautiful fund.**

2     1. *a.* A keep Iowa beautiful fund is created in the state  
3 treasury under the control of the authority. The fund shall  
4 consist of moneys appropriated to the authority and any other  
5 moneys available to and obtained or accepted by the authority  
6 for placement in the fund.

7     *b.* Repayments and recaptures of financial assistance issued  
8 in accordance with section 455C.8 and this section shall be  
9 credited to the fund. Moneys in the fund are not subject  
10 to section 8.33. Notwithstanding section 12C.7, interest or  
11 earnings on moneys in the fund shall be credited to the fund.

12    2. Moneys in the fund are appropriated to the authority  
13 and, with the approval of the administrator of the keep Iowa  
14 beautiful fund, shall be used to financially support litter  
15 control and community enhancement initiatives as set forth in  
16 section 455C.8.

17    Sec. 2. NEW SECTION.   **455C.1 Definitions.**

18    1. "*Applicant*" means a person with an interest in or  
19 responsibility to manage solid waste in this state.

20    2. "*Beverage*" means wine as defined in section 123.3,  
21 subsection 47, alcoholic liquor as defined in section 123.3,  
22 subsection 5, beer as defined in section 123.3, subsection 7,  
23 mineral water, soda water, and similar carbonated soft drinks  
24 in liquid form and intended for human consumption.

25    3. "*Beverage container*" means a sealed glass, plastic,  
26 cardboard, or metal bottle, can, jar, or carton containing a  
27 beverage.

28    4. "*Commission*" means the environmental protection  
29 commission.

30    5. "*Consumer*" means a person who purchases a beverage in a  
31 beverage container for use or consumption.

32    6. "*Core recyclables*" includes aluminum or steel cans,  
33 plastic bottles designated with society of plastics industry  
34 resin codes one through seven as determined by ASTM (American  
35 society for testing and materials) international, glass

1 bottles and jars, newspapers, magazines, junk mail, corrugated  
2 cardboard, boxboard, mixed paper, beverage cartons, and  
3 additional materials designated periodically by the department.

4 7. "*Dealer*" means a person who engages in the sale of  
5 beverages in beverage containers to a consumer.

6 8. "*Department*" means the department of natural resources  
7 created in section 455A.2.

8 9. "*Director*" means the director of the department.

9 10. "*Distributor*" means a person who engages in the sale  
10 of beverages in beverage containers to a dealer in this state,  
11 including any manufacturer who engages in such sales.

12 11. "*Financial assistance*" means monetary assistance in  
13 the form of grants, loans, or forgivable loans awarded to an  
14 applicant pursuant to this chapter.

15 12. "*High-value materials*" means aluminum, plastic, paper,  
16 and cardboard products that qualify as core recyclables.

17 13. "*Manufacturer*" means a person who fills beverage  
18 containers with beverages for sale to distributors or dealers.

19 14. "*Recycling*" means the same as defined in section 455D.1.

20 Sec. 3. NEW SECTION. 455C.2 Duties of the director.

21 The director shall do all of the following:

22 1. Unless otherwise specified in this chapter, recommend  
23 rules to the commission necessary to administer this chapter.

24 2. Administer the recycling program created by this  
25 chapter.

26 3. Enter into contracts and agreements with local units of  
27 government, other state agencies, governments of other states,  
28 governmental agencies of the United States, other public and  
29 private contractors, and other persons as may be necessary or  
30 beneficial in carrying out the department's duties under this  
31 chapter, with commission approval required for contracts or  
32 agreements in excess of twenty-five thousand dollars.

33 4. Organize an application review team to review proposals  
34 submitted to the department in accordance with this chapter.

35 Sec. 4. NEW SECTION. 455C.3 Rules.

1 The commission may adopt rules pursuant to chapter 17A  
2 necessary to administer this chapter.

3 Sec. 5. NEW SECTION. **455C.4 Recycling program planning.**

4 1. An applicant may submit a recycling program proposal to  
5 the department on or before January 1, 2019.

6 a. The department may provide proposal guidance and funding  
7 assistance to an applicant.

8 b. The department may encourage and reward regionalized  
9 and public-private partnership efforts through its recycling  
10 program proposal funding assistance decisions.

11 c. The department may encourage and reward applicants  
12 who create recycling services in areas of the state without  
13 recycling services or in underserved areas of the state that  
14 would benefit from additional access to recycling services.

15 2. A proposal submitted by an applicant must include all of  
16 the following:

17 a. An inventory of the applicant's existing recycling  
18 programs and infrastructure.

19 b. New investment and personnel required to comply with  
20 recycling program requirements.

21 c. Planned recycling education and outreach initiatives.

22 d. Projected landfill diversion results from the expenditure  
23 of the requested funding assistance.

24 e. Projected economic benefits to cities and counties.

25 f. A business plan to ensure successful operation after  
26 funding assistance ends.

27 g. Planned initiatives to encourage innovation regarding use  
28 of recycling materials.

29 3. Proposals submitted by applicants must prioritize the  
30 recovery of high-value materials from the waste stream and  
31 emphasize the highest and best use for recovered materials  
32 given economic and logistic constraints.

33 4. The department shall review and may approve submitted  
34 proposals according to criteria developed by the department.  
35 The department shall return unsatisfactory proposals to

1 applicants for revision and resubmission. Applicants whose  
2 proposals are not approved by the department are not eligible  
3 for assistance from the recycling program.

4 5. Proposals must include a means of collecting core  
5 recyclables based on best practices for improving accessibility  
6 and convenience in the applicant's region of the state, and  
7 may include special handling or exclusion of glass containers.  
8 Applicants are encouraged to pursue revenue-sharing clauses in  
9 contracts for the sale of recyclables that allow for incentives  
10 to maintain high-volume and high-value materials recycling  
11 streams.

12 Sec. 6. NEW SECTION. 455C.5 Recycling program —  
13 utilization.

14 The recycling program shall do the following:

15 1. Provide financial assistance to applicants for the  
16 preparation of recycling program proposals submitted under  
17 section 455C.4. Funding assistance for recycling proposals  
18 submitted in accordance with section 455C.4 may be awarded  
19 beginning January 1, 2018, subject to availability of funds.

20 2. Include review by the department of recycling proposals,  
21 conducting baseline recycling research, and enforcing  
22 provisions of this chapter, including enforcement of the  
23 payment of the recycling program fee.

24 3. Provide financial assistance for capital investment  
25 needed for collection, transportation, processing, or marketing  
26 of core recyclables and other recyclables. Priorities for this  
27 financial assistance include all of the following:

28 a. Projects and proposals that increase convenience and  
29 accessibility in locations for residents and businesses to  
30 recycle core recyclables.

31 b. Projects and proposals demonstrating cost-effective solid  
32 waste diversion programs.

33 c. Projects and proposals from businesses dependent upon the  
34 beverage containers control program prior to January 1, 2018,  
35 to transition into recycling system entities including but not

1 limited to redemption centers, collectors, and transportation  
2 providers.

3     *d.* Projects and proposals demonstrating a public-private  
4 partnership.

5     *e.* Projects and proposals that establish local markets and  
6 end uses in this state for core recyclables.

7     Sec. 7. NEW SECTION.   **455C.6 Recycling program fee.**

8     1. As of January 1, 2018, the department shall impose a  
9 recycling program fee of one cent per beverage container on  
10 distributors until recycling program fee revenues equal sixty  
11 million dollars, at which point the recycling program fee shall  
12 no longer be imposed.

13    2. Revenue generated from the recycling program fee shall  
14 not be subject to appropriation and shall be deposited in the  
15 solid waste account of the groundwater protection fund created  
16 in section 455E.11, subsection 2, to be utilized as provided in  
17 section 455E.11, subsection 2, paragraph "a", subparagraph (1),  
18 subparagraph division (f).

19    3. The department shall examine other more diversified  
20 funding mechanisms to provide ongoing support for recycling  
21 programs after the recycling program fee is no longer imposed.

22    4. Expenditures for recycling program administration and  
23 support may be paid using moneys received for deposit in the  
24 solid waste account under this section but shall not exceed  
25 five percent of the total moneys received for deposit each  
26 fiscal year.

27    5. Fees imposed by this section shall be paid by  
28 distributors to the department on a quarterly basis with  
29 payment due by no more than ninety days following the quarter  
30 during which the fees were collected. The payment shall be  
31 accompanied by a return which shall identify the amount of fees  
32 to be deposited in the solid waste account of the groundwater  
33 protection fund.

34     Sec. 8. NEW SECTION.   **455C.7 Litter control and community**  
35 **enhancement initiatives.**

1 The keep Iowa beautiful fund created in section 15.221 may  
2 be used to provide financial assistance to litter control and  
3 community enhancement initiatives that do any of the following:

4 1. Conduct statewide surveys every ten years to allow  
5 tracking of litter control and prevention progress.

6 2. Develop and utilize public relations campaigns primarily  
7 focused on litter control and community enhancement.

8 3. Promote teachers-going-green-program lesson plans that  
9 meet core federal and state education requirements.

10 4. Coordinate community service outreach grant programs  
11 targeted at youth groups, elementary school fundraisers,  
12 and religious and community improvement clubs, schools, or  
13 specialized programs.

14 5. Develop and coordinate a litter control and community  
15 enhancement grant program according to criteria determined by  
16 the administrator of the keep Iowa beautiful fund. Inadequate  
17 or incomplete proposals shall be returned to the applicant for  
18 revision and resubmission. Applicants whose proposals are not  
19 approved by the administrator of the keep Iowa beautiful fund  
20 shall not be eligible for funding assistance from the keep Iowa  
21 beautiful fund.

22 Sec. 9. NEW SECTION. 455C.8 Litter control and community  
23 enhancement fee.

24 1. A litter control and community enhancement fee is  
25 imposed effective January 1, 2019, as an excise tax collected  
26 by the department of revenue at a rate of fifteen-thousandths  
27 of one percent upon the sales price of beverages in beverage  
28 containers from dealers.

29 2. All revenue generated from the litter control and  
30 community enhancement fee shall be deposited into a separate  
31 account in the keep Iowa beautiful fund. Revenue generated  
32 from the litter control and community enhancement fee shall not  
33 be used for any purpose other than those referenced in section  
34 455C.7 and shall not be subject to appropriation for any other  
35 purpose.

1     3. Fees imposed by this section shall be paid to the  
2 department on a quarterly basis with payment due by no more  
3 than ninety days following the quarter during which the fees  
4 were collected. The payment shall be accompanied by a return  
5 which shall identify the amount of fees to be deposited in the  
6 keep Iowa beautiful fund.

7     4. The director of revenue shall administer the litter  
8 control and community enhancement fee as an excise tax on the  
9 sale of beverages in beverage containers as nearly as possible  
10 in conjunction with the administration of the state sales and  
11 use tax law, except that portion of the law that implements the  
12 streamlined sales and use tax agreement. The director shall  
13 provide appropriate forms, or provide on the regular state tax  
14 forms, for reporting the excise tax liability.

15     Sec. 10. Section 123.24, subsection 5, Code 2017, is amended  
16 by striking the subsection.

17     Sec. 11. Section 123.26, Code 2017, is amended to read as  
18 follows:

19     **123.26 Restrictions on sales — seals — labeling.**

20     Alcoholic liquor shall not be sold by a class "E" liquor  
21 control licensee except in a sealed container with identifying  
22 markers as prescribed by the administrator and affixed in the  
23 manner prescribed by the administrator, and no such container  
24 shall be opened upon the premises of a state warehouse. The  
25 ~~division shall cooperate with the department of natural~~  
26 ~~resources so that only one identifying marker or mark is needed~~  
27 ~~to satisfy the requirements of this section and section 455C.5,~~  
28 ~~subsection 1.~~ Possession of alcoholic liquors which do not  
29 carry the prescribed identifying markers is a violation of this  
30 chapter except as provided in [section 123.22](#).

31     Sec. 12. Section 123.187, subsection 4, paragraph b, Code  
32 2017, is amended by striking the paragraph.

33     Sec. 13. Section 423.6, subsection 3, paragraph a, Code  
34 2017, is amended to read as follows:

35     a. Any tangible personal property including containers which



1 it is intended shall, by means of fabrication, compounding,  
2 manufacturing, or germination, become an integral part of other  
3 tangible personal property intended to be sold ultimately at  
4 retail, ~~and containers used in the collection, recovery, or~~  
5 ~~return of empty beverage containers subject to~~ [chapter 455C](#).

6 Sec. 14. Section 455B.313, subsection 1, Code 2017, is  
7 amended to read as follows:

8 1. A distributor as defined in section 455C.1, ~~subsection~~  
9 ~~9~~, shall not sell or offer to sell any beverage container  
10 if the beverage container is connected to another beverage  
11 container by a device constructed of a material which is not  
12 biodegradable or photodegradable.

13 Sec. 15. Section 455E.11, subsection 2, paragraph a,  
14 subparagraph (1), subparagraph division (d), Code 2017, is  
15 amended to read as follows:

16 (d) Up to thirty percent of the tonnage fees remitted shall  
17 be used for grants to environmental management systems as  
18 provided in [section 455J.7](#).

19 Sec. 16. Section 455E.11, subsection 2, paragraph a,  
20 subparagraph (1), subparagraph division (f), Code 2017, is  
21 amended to read as follows:

22 (f) The balance of the remaining funds shall be used by the  
23 department to develop do the following:

24 (i) Develop and implement demonstration projects for  
25 landfill alternatives to solid waste disposal including  
26 recycling programs. ~~These funds may also be used to assist~~

27 (ii) Assist planning areas which have not been designated  
28 as environmental management systems in meeting the designation  
29 requirements of [section 455J.3](#).

30 (iii) Provide financial assistance for recycling programs  
31 described in section 455C.5 using revenue from fees imposed  
32 under section 455C.6.

33 Sec. 17. REPEAL. Chapter 455C, Code 2017, is repealed.

34 Sec. 18. REPEAL. Section 314.28, Code 2017, is repealed.

35 Sec. 19. TRANSITION AND IMPLEMENTATION.

1        1. The department of natural resources, the economic  
2 development authority, and the administrator of the keep Iowa  
3 beautiful board may begin preparations to implement this Act,  
4 including adoption of administrative rules, prior to January 1,  
5 2018, to the extent necessary to transition from the beverage  
6 containers control law to full implementation of the provisions  
7 relating to the recycling program and litter control and  
8 community enhancement initiatives.

9        2. Any moneys remaining in the keep Iowa beautiful  
10 fund created in section 314.28 on June 30, 2017, shall be  
11 transferred to the keep Iowa beautiful fund created in section  
12 15.221.

13       Sec. 20. EFFECTIVE DATE. This Act takes effect January 1,  
14 2018, except as otherwise provided in this Act.

15       Sec. 21.   EFFECTIVE DATE — TRANSITION AND  
16 IMPLEMENTATION.   The section of this Act providing for  
17 transition and implementation takes effect July 1, 2017.

18       Sec. 22.   CODE EDITOR DIRECTIVE.

19 1. The Code editor is directed to transfer section 455B.313  
20 to section 455D.8.

21       2. The Code editor shall correct internal references in the  
22 Code and in any enacted legislation as necessary due to the  
23 enactment of this section.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with  
26 the explanation's substance by the members of the general assembly.

27       This bill repeals current Code chapter 455C, the beverage  
28 containers control law, and replaces it with new statewide  
29 recycling, litter control, and community enhancement programs.

30 The bill requires an applicant to submit a recycling program  
31 proposal to the department of natural resources on or before  
32 January 1, 2018, outlining its proposals regarding recycling,  
33 litter control, and community enhancement programs set forth  
34 in new Code sections 455C.4 and 455C.7. Applicants without  
35 approved proposals will not be eligible for funding assistance

1 from the new programs created in the new Code chapter.

2     The bill deposits moneys into the solid waste account of the  
3 groundwater protection fund created in Code section 455E.11(2)  
4 for use by the recycling program collected through a recycling  
5 program fee imposed by the department of natural resources.  
6 The recycling program fee is a temporary assessment that will  
7 remain in place until \$60 million is raised, at which point the  
8 recycling program fee is no longer imposed.

9     The bill requires applicants to submit litter control  
10 and community enhancement proposals to the administrator of  
11 the keep Iowa beautiful fund. The bill repeals the current  
12 keep Iowa beautiful fund established in Code section 314.28  
13 and creates a new keep Iowa beautiful fund within the state  
14 treasury under the control of the economic development  
15 authority. The keep Iowa beautiful fund receives moneys from a  
16 new litter control and community enhancement fee collected by  
17 the department of revenue at a rate of fifteen-thousandths of 1  
18 percent of the sales price of beverages in beverage containers.

19     The bill authorizes the environmental protection commission  
20 to adopt rules pursuant to Code chapter 17A necessary to  
21 administer the new Code chapter 455C provisions.

22     The bill takes effect January 1, 2018, except that the  
23 department of natural resources, the economic development  
24 authority, and the administrator of the keep Iowa beautiful  
25 fund may begin implementation on July 1, 2017, to the extent  
26 necessary to transition from the beverage containers control  
27 law to full implementation of the provisions relating to the  
28 recycling program and litter control and community enhancement  
29 initiative.